

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**Interim Application No.185 of 2024
in
Cri. Revision Application No.35 of 2024**

Paresh Bhagwanji Shah
Age-35 yrs, Occ: service
R/at Anjur Phata, Kamatghar
Road, Vrishab Apartment,
1st floor, Room No.101,
Bhiwandi, Dist.Thane

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr Anup Lahoti, for the applicant.
Mr Yogesh Dabke, APP, for the respondent/ State.
PSI RN Chaudhari, Kasa Police Station, Palghar.

**Coram: R.N.Laddha, J.
Date: 11 March 2025.**

P.C.:

The applicant faced the trial in SCC No.113 of 2008 before the Judicial Magistrate First Class, Dahanu, Palghar, for offences punishable under Sections 279, 304-A, 337 and 338 of the Indian Penal Code ('IPC') and Sections 134 read with 187 of the Motor Vehicle Act, 1988 ('MV Act'). By a judgment and order dated 2 May 2014, the applicant was convicted and sentenced to suffer as follows: (i) rigorous imprisonment for three months and a fine of Rs.200/- (with default stipulations) for the offence punishable

under Section 279 of the IPC; (ii) rigorous imprisonment for a period of one year and a fine of Rs.300/- (with default stipulations) for the offence punishable under Section 304-A of the IPC; (iii) rigorous imprisonment for one year and a fine of Rs.300/- (with default stipulations) for the offence punishable under Section 338 of the IPC; and (iv) rigorous imprisonment for one month for the offences punishable under Sections 134 read with 187 of the MV Act. All the sentences were directed to run concurrently.

2. Aggrieved by the judgment and order dated 2 May 2014, the applicant approached the Additional Sessions Judge, Palghar, in Criminal Appeal No.17 of 2014. By a judgment and order dated 30 September 2023, the learned Additional Sessions Judge, dismissed the appeal and confirmed the applicant's conviction.

3. Dissatisfied with the concurrent findings of conviction, the applicant filed a revision before this Court, and by way of the present application, the applicant seeks suspension of the sentence and release on bail.

4. Mr Anup Lahoti, the learned Counsel appearing on behalf of the applicant, points out the alleged deficiencies in the prosecution's case and contends that the testimony of the prosecution witnesses lacks credibility and fails to inspire confidence. The learned Counsel submits that since the applicant

was on bail throughout the trial and the appeal proceedings, he should receive the same treatment during the pendency of the revision. The applicant is willing to cooperate fully with the revision proceedings, and prays for his release on bail pending the outcome of the revision.

5. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's request, refers to the seriousness of the charge on which the applicant has been convicted and argues that the evidence on record strongly supports the prosecution's case and does not warrant the grant of bail.

6. In *Bhagwan Rama Shinde Gosai v. State of Gujarat*, (1999) 4 SCC 421, the Hon'ble Supreme Court observed as follows:

“3. When a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases.

Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted.”

7. The maximum imprisonment imposed upon the applicant is one year. The applicant was on bail during the pendency of the trial and the appeal. The revision is filed in 2023 and is unlikely to be heard in the near future due to the pendency of the older revision applications. Considering the nature of the accusations, the quantum of sentence, and the fact that the applicant was on bail during the pendency of the trial as well as the appeal, the present application is allowed in the following terms:

(i) The sentence imposed upon the applicant by the judgment and order dated 2 May 2014 passed by the Judicial Magistrate First Class, Dahanu, Palghar, in SCC No.113 of 2008, and confirmed by the judgment and order dated 30 September 2023 passed by the Additional Sessions Judge, Palghar, in Criminal Appeal No.17 of 2014, stands suspended during the pendency of the revision.

(ii) The applicant shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(iii) The applicant shall inform and update the investigating officer of his residential address and contact details.

8. The interim application stands disposed of accordingly.

[R. N. Laddha, J.]